

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER

December 9, 1997

CHARO’S CORPORATION, d.b.a.)
CHARO’S RESTAURANT,)
Complainant,)
)
v.) 8 U.S.C. §1324a Proceeding
) OCAHO Case No. 95E00046
UNITED STATES OF AMERICA,)
Respondent.)
_____)

ORDER OF DISMISSAL, SETTLED

Marvin H. Morse, Administrative Law Judge

Appearances: *John D. Taylor, Esq.*, on behalf of the Immigration and Naturalization Service.
Peter A. Schey, Esq., on behalf of Charo’s Corporation.

Charo’s Corporation initiated this action pursuant to 5 U.S.C. §504 to shift fees and expenses arising out of litigating an underlying complaint filed by the Immigration and Naturalization Service pursuant to 8 U.S.C. §1324a. Following disposition of the §1324a case, *United States v. Charo’s Corp.*, 2 OCAHO 369 (1991), 1991 WL 531881 (O.C.A.H.O.), subsequent fee shifting applications were the subject of successive administrative adjudications, reported at 3 OCAHO 402 (1992), 1992 WL 535542 (O.C.A.H.O.), 3 OCAHO 467 (1992), 1992 WL 535625 (O.C.A.H.O.) and 5 OCAHO 761 (1995), 1995 WL 464013 (O.C.A.H.O.), reversed and remanded respectively by the United States Court of Appeals for the Ninth Circuit, in *Charo’s Corp v. United States*, 35 F.3d 570 (9th Cir. 1994), 108 F.3d 336 (9th Cir. 1997) (Table).

Following lengthy filings by both parties and extensive telephonic prehearing conferences among counsel and the judge, counsel advised on December 3, 1997 that the parties had reached an agreed disposition of the application for fee shifting arising out of the administrative adjudication. As anticipated, counsel have this day tendered a signed Agreement for Payment of Attorneys' Fees and Costs And Order Thereon, which contemplates payments as agreed, and termination of this proceeding, reserving only whatever claim there may be for shifting of fees and expenses for activity before the Ninth Circuit.

Issuance of this Order of Dismissal, Settled, in lieu of the form appended to the agreement as tendered gives effect to the intent of the parties, concluding that for good cause shown it is just and appropriate to dismiss this case, and to incorporate by reference the terms of the agreement between the parties as fully as if here set forth.

SO ORDERED.

Dated and entered this 9th day of December, 1997.

MARVIN H. MORSE
Administrative Law Judge